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7
8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

* * *

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 vs.

13 JOHN KANE and
14 ANDRE NESTOR,

15 Defendants.

2:11-cr-022-MMD-GWF

**STIPULATION TO CONTINUE TRIAL
DATES**

(Eighth Request)

16 IT IS HEREBY STIPULATED AND AGREED, by and between Daniel G. Bogden,
17 United States Attorney, and Daniel Schiess, Assistant United States Attorney, counsel for the United
18 States of America, and Rene L. Valladares, Federal Public Defender, and Shari L. Kaufman,
19 Assistant Federal Public Defender, counsel for ANDRE NESTOR, and Andrew M. Leavitt, Esq.,
20 counsel for John Kane, that the calendar call currently scheduled for August 12, 2013 at the hour of
21 1:00 p.m, and the trial currently scheduled for August 20, 2013 at the hour of 9:00 a.m, be vacated
22 and set to a time and date convenient to this court. However, in no event earlier than ninety (90)
23 days.

24 This Stipulation is entered into for the following reasons:

25 1. The parties are involved in negotiation of the case, in light of this Court's
26 Order granting the Motion to Dismiss Counts 2 and 3 of the Indictment. The negotiation of the case
27 would obviate the need for trial in this matter. Additional time is requested to allow for a resetting
28 in this matter to accommodate the need to finalize the negotiation of the case.

2. The defendants are not incarcerated and do not object to the continuance.

3. Additionally, denial of this request for continuance could result in a miscarriage of justice.

4. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(1)(D) and Title 18, United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv). In the alternative, the continuance sought herein is also excludable under the Speedy Trial Act, Title 18, United States Code, 3161(h)(1)(D) because the “period of delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion[s]” shall be excluded in computing the time within which trial must commence.

5. This is the eighth request for continuance sought.

DATED this 10th day of July, 2013.

RENE L. VALLADARES
Federal Public Defender

DANIEL G. BOGDEN
United States Attorney

/s/ Shari L. Kaufman

By: _____
SHARI L. KAUFMAN
Assistant Federal Public Defender
Counsel for Andre Nestor

/s/ Daniel Schiess

By: _____
DANIEL SCHIESS
Assistant United States Attorney
Counsel for Plaintiff

/s/ Andrew Leavitt

By: _____
ANDREW LEAVITT, Esq.
Counsel for John Kane

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN KANE and
ANDRE NESTOR,

Defendants.

2:11-cr-022-MMD-GWF

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. The parties are involved in negotiation of the case, in light of this Court's Order granting the Motion to Dismiss Counts 2 and 3 of the Indictment. The negotiation of the case would obviate the need for trial in this matter. Additional time is requested to allow for a resetting in this matter to accommodate the need to finalize the negotiation of the case.

2. The defendants are not incarcerated and do not object to the continuance.

3. Additionally, denial of this request for continuance could result in a miscarriage of justice.

4. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(1)(D) and Title 18, United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv). In the alternative, the continuance sought herein is also excludable under the Speedy Trial Act, Title 18, United States Code, 3161(h)(1)(D) because the "period of delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion[s]" shall be excluded in computing the time within which trial must commence.

5. This is the eighth request for continuance sought.

1 For all of the above-stated reasons, the ends of justice would best be served by a
2 continuance sought.

3 CONCLUSIONS OF LAW

4 The ends of justice served by granting said continuance outweigh the best interest of
5 the public and the defendant in a speedy trial, since the failure to grant said continuance would be
6 likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the
7 opportunity within which to be able to effectively and thoroughly prepare for trial, taking into
8 account the exercise of due diligence.

9 The continuance sought herein is excludable under the Speedy Trial Act, Title 18,
10 United States Code, 3161(h)(7) and Title 18 United States Code, §§ 3161 (h)(7)(A), when the
11 considering the facts under Title 18, United States Code, §§ 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).

12 In the alternative, the continuance sought herein is also excludable under the Speedy
13 Trial Act, Title 18, United States Code, 3161(h)(1)(D) because the “period of delay resulting from
14 any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other
15 prompt disposition of, such motion[s]” shall be excluded in computing the time within which trial
16 must commence.

17 ORDER

18 IT IS THEREFORE ORDERED that trial briefs, proposed voir dire questions,
19 proposed jury instructions, and a list of the Government’s prospective witnesses must be submitted
20 to the Court by the ____ day of _____, 2013, by the hour of 4:00 p.m.

21 IT IS FURTHER ORDERED that calendar call currently scheduled for August 12,
22 2013 at the hour of 1:00 p.m., be vacated and continued to _____ at
23 the hour of _____ at the hour of _____: _____ .m.; and the trial currently scheduled for August
24 20, 2013 at the hour of 9:00 a.m., be vacated and continued to
25 _____ at the hour of _____: _____ .m.

26 DATED ____ day of July, 2013.

27
28 UNITED STATES DISTRICT JUDGE